

FORM A—To be used by a prisoner filing a complaint under the Civil Rights Act, 42 U.S.C. § 1983

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Dwight Marquez Kellogg

[Signature lines crossed out with X's]

(Enter above the full name of the plaintiff or plaintiffs in this action.)

v.

COMPLAINT

Douglas County

[Signature lines crossed out with X's]

(Enter above the full name of the defendant or defendants in this action, if known.)

(Note: If there is more than one plaintiff, a separate sheet should be attached giving the information in Parts I, II, and III for each plaintiff, by name. Remember, all plaintiffs must sign the complaint.)

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2018 MAY -3 PM 1:46
OFFICE OF THE CLERK

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MAY 3 - 2018

CLERK
U.S. DISTRICT COURT

8:18cv197

- I. A. Place of Present Confinement Douglas County Jail
B. Parties to this civil action: one

Please give your commitment name and any other name(s) you have used while incarcerated.

- (1) Plaintiff Dwight Marquez Kellogg Registr. No. 2204814
Address 710 South 17th Street Omaha, Nebraska, 68102

Additional plaintiff's Registr. No. and address:

- (2) Defendant Douglas County
is employed as Douglas County at Douglas County
Additional defendant's employment: Sergeant, Hololenbeck
Sergeant, Whitner Officer R.M. Bayer Sergeant, Swircek
Officer, Grothe, Officer, AR Gillaspie Officer, Dustin Luschwitz
Officer, Heather Yosten

II. Previous Civil Actions

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☐

- (1) Title: _____
(Plaintiff) (v.) (Defendant)
- (2) Date filed _____
- (3) Court where filed _____
(specify if the court was state or federal and the level of the court)
- (4) Court number and citation _____
- (5) Name of judge to whom the case was assigned _____
- (6) Basic claim made _____

- (7) Date of disposition _____
- (8) Disposition _____
(pending) (on appeal) (resolved)
- (9) If decided by the court, state whether for plaintiff or defendant _____
- (10) Approximate date of filing _____
- (11) Approximate date of judgment _____

For additional cases, provide the above information in the same format on a separate page.

B. Have you begun other cases in state or federal courts relating to the conditions of your treatment while in confinement? Yes ___ No X

III. Grievance Procedure

A. Does your institution have an administrative or grievance procedure? Yes X No ___

B. Did you present the facts relating to your complaint through the administrative or grievance procedure?
Yes ___ No X

C. What was the result? I never file a grievance but I submitted a inmate request form

D. If you did not file a grievance, state the reasons didn't Institution had a grivevance from procedure

E. Please attach any responses as exhibits to this complaint.

F. If there is not prisoner grievance procedure at your institution, did you complain to prison authorities?
Yes X No ___

G. If your answer to F is yes,

A. What steps did you take and what was the result? Submit inmate request form and no response back.

IV. Jurisdiction

A. Is this complaint brought for a violation of your federal constitutional rights by a person employed by the state, county, or municipal government or acting with such government officials? Yes X No

If "yes," please state the agency the official(s) is/are employed by or why you believe the defendant(s) was/were acting in conjunction with government officials: Sergeant, Whiter Sergeant, T.P Swricek
Sergeant, Hololenbeck Officer R.M Bavier,
Officer Luschwitz Dustin, Officer A.R Gillaspie,
Officer, Grothe, Officer Heather Yosten

B. Is this complaint brought for a violation of state or local law? Yes ☒ No ☐

If so, please specify (without alleging any supporting facts) the state law(s) you believe was/were violated
My 5th, 6th, and 8th amendment rights has been Violated.

Is/are the defendant(s) residents of the same state as you? Yes X No

If not, specify what state

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

A. Do you request money damages? Yes X No

1. Did you lose any money from this incident?

Yes _____ No X If so, how much?

2. Did you receive a physical injury? Yes X No

3. What other harm did you experience from this incident? Jaw, neck, forehead, injury, back head injuries and got to get tooth pulled because it cause me pain ungoing pain, I was assisted 'By Douglas County Jail Staff

4. State the amount of damages claimed *4 million dollars*

B. Do you request a jury trial? Yes No X

C. State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Please grant me my request of relief of 4 million dollars,
and thank you for your concern.

B. State briefly your legal theory or cite appropriate authority: See attached documents and thank you for your Concern. Also have three Stamp Envelope inside with Court documents inside

VI. Relief

A. Do you request money damages? Yes X No

If so, I'm requesting relief of 4 million dollars

1. Did you lose any money from this incident?
Yes No If so, how much?

2. Did you receive a physical injury? Yes X No

3. What other harm did you experience from this incident? Jaw, neck, front of my head injury backhead injury and got to get tooth pulled because it cause me pain ungoing pain, I was assaulted by Dougl's County Jail staff

4. State the amount of damages claimed 4 million dollars

B. Do you request a jury trial? Yes No X

C. State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Please grant me my request of relief of 4 million dollars, and thank you for your Concern.

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12

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VII. Request for Appointment of Counsel

A. Do you want an attorney to represent you in presenting your claim to the court? Yes ___ No X

B. Did someone help you in preparing this complaint? Yes ___ No X If so, state the person's name (optional)

C. Have you made any efforts to contact a private lawyer to determine if he or she would represent you in this action? Yes ___ No X

If so, state the name(s) and address(es) of each lawyer contacted _____

If not, state your reasons Cant afford alwyer Pro-Se
acting as my own attorney

(Note: This court has no funds with which to pay an attorney for handling this type of case. Because of this, appointments are made only in cases where an attorney is greatly needed and the attorney is willing to take the case without expecting to receive any fee.)

I declare under penalty of perjury that the forgoing is true and correct.

Signed this 29 day of April, 2018.

Dwight Marquez Kellogg
Dwight Marquez Kellogg
(Signature(s) of Plaintiff(s))

Dwight M Kellogg
Printed Name

(220484) H
Data # Module #

Douglas County
DEPARTMENT OF CORRECTIONS
710 SOUTH 17TH STREET
OMAHA, NEBRASKA 68102

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U.S. DISTRICT COURT

*Clerk of The United States District Court
111 South 18th Plaza
Suite 1152
Omaha, NE*

68102-1322 COTB

68102-1322

Dwight M Kellogg Bron 9-5-91 4-29-18

The Douglas County Jail officers that was in Unit-P / The Gym in Douglas County Jail all Three of them have Conflicting Stories to cover up for them assulting me on March, 2, 2018.

All three of these officers was in Unit-P / The Gym with these officers are lying to cover up for assulting me on that day. Please check and review Camera Footages of Unit-P / Gym and pictures of my swollen face knots in the back of my head. The Douglas County Sheriff's Department will in should have the pictures / photos of me from that day also my Statement from that day as well. Bye these three officers assulting me in Unit-P / The Gym. Thank you for your Concern.

Sign, Dwight Marquez Kellogg 2204814
Plaintiff

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Witnesses Name's

INMATE

Petrell Greene -

Richard Carmona JR # 1673235

Herbert Sturgen # 1329603

Leo Newson

DOUGLAS COUNTY DEPARTMENT OF CORRECTIONS
710 South 17th Street
Omaha, Nebraska 68102

DISCIPLINARY MISCONDUCT REPORT

REPORT # 3-97 I/M CLASSIFICATION: MAX

REPORTING EMPLOYEE: COI Dustin Luschwitz CHIT # 7970

INMATE'S FULL NAME: Kellogg Dwight M
Last *First* *Middle*

INMATE DATA #: 220481 HOUSING UNIT: 20 ROOM # 8

DATE: 2-Mar-18 TIME: 1819 LOCATION: H/U P

SENTENCED: ☐ PRETRIAL: ☒ FEDERAL: ☐ ICE: ☐ HOLD: ☐

CHARGES: VOP-POSS C/S

ALLEGED MISCONDUCT INFRACTION: ASSAULT OFFICER IN (PHYSION)
(To be Completed by Case Management)

REPORT NARRATIVE:

On 03/02/2018 at about 1819 I CO1 Luschwitz, Dustin #7970 assisted in restraining I/M Kellogg, Dwight M #2204814 so that he could be transported to H/U 20.

On the above date at 1819 hours I responded to a code blue in H/U P. I arrived at about 1819 hours and saw CO1 Gillespie #6513 and CO1 Grothe #7828 trying to help I/M Kellogg into a chair to place restraints on his wrist. I/M Kellogg then stood and began swinging his arms, with closed fists, wildly around. He struck CO1 Gillespie with a closed fist and was then taken to the ground. While CO1 Gillespie and CO1 Grothe were attempting to secure his wrist in restraints he continued to violently resist. At this time I began securing I/M Kellogg's legs. He began violently kicking his legs at me in an attempt to resist. His foot grazed my nose and struck me in the forehead. I then used an open hand strike with my left hand on his left common peroneal and secured the left foot in restraints. CO1 Grothe then assisted me in securing the right foot in the restraints. I then held his legs on the floor until he was raised to his feet and escorted from the housing unit by other officers.

In conclusion, this report was written to document what happened in H/U P and why I/M Kellogg has been placed on lockdown pending a hearing.

RL 7970
REPORTING OFFICER'S SIGNATURE

SHIFT SUPERVISOR'S SIGNATURE

Distribution: Original – Hearing Board, Copy – Inmate File, Copy – Inmate

DOUGLAS COUNTY DEPARTMENT OF CORRECTIONS
710 South 17th Street
Omaha, Nebraska 68102

DISCIPLINARY MISCONDUCT REPORT

REPORT # 3-63 I/M CLASSIFICATION: Min

REPORTING EMPLOYEE: Grothe, Thomas CHIT # 7828

INMATE'S FULL NAME: Kellogg Dwight M
Last First Middle

INMATE DATA #: 2204814 HOUSING UNIT: P ROOM # 10

DATE: 2-Mar-18 TIME: 1934 LOCATION: 2B Housing Unit P

SENTENCED: ☐ PRETRIAL ☐ FEDERAL: ☐ ICE: ☐ HOLD: ☒

CHARGES: VOP-POSS C/S

ALLEGED MISCONDUCT INFRACTION: FLAME TEMPER FAILURE Comply
(To be Completed by Case Management)

REPORT NARRATIVE:

On March 2, 2018, I, Officer Grothe, Thomas 7828 was working as one of the Housing Unit Officers in P mod.

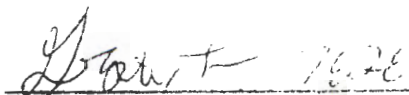
At approximately 1819 hours, Inmate Kellogg became disruptive about what appeared to be in his food tray. Inmate Kellogg stated that there was a bone in his food tray. I tired talking to Inmate Kellogg about the issue with his food tray. Inmate Kellogg then stated to me "I don't give a fuck who you are!" I replied "Okay let me talk to for a minute." Inmate Kellogg then threw his food tray on the ground. The food tray hit Inmate Keim, Christopher 2261958. Inmate Keim rushed toward Inmate Kellogg, and hit Inmate Kellogg with a closed fist in the head. Inmate Kellogg fell to the ground. Inmate Keim continued to strike Inmate Kellogg in the head. I gave a directive to Inmate Keim to stop and get on the ground. Inmate Keim walked away from Inmate Kellogg. Once Inmate Keim walked away from Inmate Kellogg, Inmate Kellogg rushed toward Inmate Keim. At this point escort officers intervened and grabbed Inmate Kellogg, and attempted to place Inmate Kellogg in restraints. Inmate Kellogg was non-compliant, and became actively aggressive toward staff. Inmate Kellogg was swinging closed fist at staff, and kicking with both feet toward staff. Once Kellogg was on his stomach, Officer Gillaspie, Adam 6513 secured his arms in restraints. With the help of Officer Luschwitz, Dustin 7970, we secured his ankles in leg restraints. I applied the left leg restraint on Inmate Kellogg. Inmate Kellogg was then escorted to medical. Nurse Theresa, Thomas 8363 checked and cleared Inmate Kellogg. Once cleared by medical, Inmate Kellogg was secured in Housing Unit 20 room 8.

John J. 7820
REPORTING OFFICER'S SIGNATURE

SHIFT SUPERVISOR'S SIGNATURE

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In conclusion, a physical altercation occurred between Inmate Keim and Inmate Kellogg. Inmate Kellogg was non-compliant with staff when trying to place him in restraints. Inmate Kellogg became actively aggressive toward staff. Inmate Kellogg struck several Officers. Inmate Kellogg also kicked his feet toward Officers. Once secured in restraints, Inmate Kellogg was escorted to medical. Once seen and cleared by medical, Inmate Kellogg was secured in Housing Unit 20 room 8.



REPORTING OFFICER'S SIGNATURE



SHIFT SUPERVISOR'S SIGNATURE

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Dwight M Kellogg
Printed Name

(*2204814*) (*11*)
Data # Module #

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OMAHA, NEBRASKA 68102

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